

File

STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

Norman H. Bangerter, Governor
Dee C. Hansen, Executive Director
Dianne R. Nielson, Ph.D., Division Director

355 W. North Temple • 3 Triad Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

June 28, 1985

CERTIFIED RETURN RECEIPT REQUESTED
P 001 861 878

Mr. Nathan Atwood
Co-op Mining Company
P. O. Box 300
Huntington, Utah 84528

Dear Mr. Atwood:

RE: Proposed Assessment for State Violation No. N85-4-13-1,
N85-4-18-1, C85-4-4-1, ACT/015/025, Folder #8, Emery County, Utah

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Officer for assessing penalties under UMC/SMC 845.11-845.17.

Enclosed is the proposed civil penalty assessment for the above referenced violations. These violations were issued by Division Inspector David Lof, N85-4-13-1, on April 23, 1985, N85-18-1 on May 31, 1985 and C85-4-4-1 on May 2, 1985. Rule UMC/SMC 845.2 et seq. has been utilized to formulate the proposed penalty. By these rules, any written information, which was submitted by you or your agent within 15 days of receipt of this notice of violation, has been considered in determining the facts surrounding the violation and the amount of penalty.

Within fifteen (15) days after receipt of this proposed assessment, you or your agent may file a written request for an assessment conference to review the proposed penalty. (Address a request for a conference to Ms. Jan Brown, at the above address.) If no timely request is made, all pertinent data will be reviewed and the penalty will be reassessed, if necessary, for a finalized assessment. Facts will be considered for the final assessment which were not available on the date of the proposed assessment, due to the length of the abatement period. This assessment does not constitute a request for payment.

Sincerely,

A handwritten signature in cursive script that reads "Mike Earl".

Mike Earl
Assessment Officer

re

Enclosure

cc: D. Griffin, OSM Albuquerque Field Office
73140

WORKSHEET FOR ASSESSMENT OF CESSATION ORDERS
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Co-op/Bear Canyon CO # C85-4-4-1
PERMIT # ACT/015/025 VIOLATION 1 OF 1
INSPECTOR David Lof DATE ISSUED May 2, 1985
NATURE OF THE CESSATION ORDER: Failure to abate N85-4-13-1
DATE OF ABATEMENT OF CESSATION ORDER: May 3, 1985
DATE OF RECEIPT OF CESSATION ORDER: May 3, 1985
LIST THE DAYS OF FAILURE TO ABATE: May 3, 1985
TOTAL NUMBER OF DAYS OF FAILURE TO ABATE: 1 day
NUMBER OF DAYS X \$750/DAY = TOTAL ASSESSED FINE: \$ 750.

ASSESSMENT DATE June 25, 1985 ASSESSMENT OFFICER Mike Earl

ASSESSMENT X PROPOSED ASSESSMENT FINAL

0061Q

WORKSHEET FOR ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Co-op/Bear Canyon NOV # N85-4-18-1
PERMIT # ACT/015/025 VIOLATION 1 OF 1

I. HISTORY MAX 25 PTS

A. Are there previous violations which are not pending or vacated,
which fall within 1 year of today's date?

ASSESSMENT DATE June 25, 1985 EFFECTIVE ONE YEAR DATE June 26, 1984

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
N84-7-3-1	11-23-84	1	N84-4-2-1 PA	6-6-85	0
C84-7-1-1 PA	5-8-85	0	N85-4-3-2 PA	6-6-85	0
C83-5-1-4 #3	6-29-84	5	N85-4-8-2 PA	6-7-85	0
C83-5-3-1	pending	0			
N84-4-13-3 PA	5-5-85	0			

1 point for each past violation, up to one year
5 points for each past violation in a CO, up to one year
No pending notices shall be counted

TOTAL HISTORY POINTS 6

II. SERIOUSNESS (either A or B)

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category the violation falls. Beginning at the mid-point of the category, the AO will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Event

A. Event Violations MAX 45 PTS

- What is the event which the violated standard was designed to prevent? Conducting activities without appropriate approvals
- What is the probability of the occurrence of the event which a violated standard was designed to prevent?

PROBABILITY	RANGE	MID-POINT
None	0	
Insignificant	1-4	2
Unlikely	5-9	7
Likely	10-14	12
Occurred	15-20	17

ASSIGN PROBABILITY OF OCCURRENCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS Per inspector statement the operator had begun constructing a new coal stacking tube and truck loadout station without Division approval.

3. Would or did the damage or impact remain within the exploration or permit area? Yes

	RANGE	MID-POINT
Within Exp/Permit Area	0-7*	4
Outside Exp/Permit Area	8-25*	16

*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 2

PROVIDE AN EXPLANATION OF POINTS Inspector did not believe there was any damage caused by the construction. However, the facilities were not covered in their reclamation bond.

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? _____

	RANGE	MID-POINT
Potential hindrance	1-12	7
Actual hindrance	13-25	19

Assign points based on the extent to which enforcement is hindered by the violation.

ASSIGN HINDRANCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS _____

TOTAL SERIOUSNESS POINTS (A or B) 17

III. NEGLIGENCE MAX 30 PTS

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO - NO NEGLIGENCE;
OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO - NEGLIGENCE;
OR Was this violation the result of reckless, knowing, or intentional conduct? IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.

		MID-POINT
No Negligence	0	
Negligence	1-15	8
Greater Degree of Fault	16-30	23

STATE DEGREE OF NEGLIGENCE Greater Degree of Fault
ASSIGN NEGLIGENCE POINTS 25

PROVIDE AN EXPLANATION OF POINTS The Division sent the operator a deficiency letter on March 29, 1985 regarding these facilities. No construction was to take place until the concerns in the letter were addressed.

IV. GOOD FAITH MAX -20 PTS. (either A or B)

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area? IF SO -EASY ABATEMENT

Easy Abatement Situation

Immediate Compliance -11 to -20*
 (Immediately following the issuance of the NOV)
 Rapid Compliance -1 to -10*
 (Permittee used diligence to abate the violation)
 Normal Compliance 0
 (Operator complied within the abatement period required)

*Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance? IF SO - DIFFICULT ABATEMENT SITUATION

Difficult Abatement Situation

Rapid Compliance -11 to -20*
 (Permittee used diligence to abate the violation)
 Normal Compliance -1 to -10*
 (Operator complied within the abatement period required)
 Extended Compliance 0
 (Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)

EASY OR DIFFICULT ABATEMENT? easy ASSIGN GOOD FAITH POINTS -15

PROVIDE AN EXPLANATION OF POINTS The operator was to cease all construction activities immediately and not resume those activities until such time as Division approval was received. NOV terminated June 17, 1985.

V. ASSESSMENT SUMMARY FOR N85-4-18-1

I. TOTAL HISTORY POINTS	<u>6</u>
II. TOTAL SERIOUSNESS POINTS	<u>17</u>
III. TOTAL NEGLIGENCE POINTS	<u>25</u>
IV. TOTAL GOOD FAITH POINTS	<u>-15</u>

TOTAL ASSESSED POINTS 33

TOTAL ASSESSED FINE \$ 460

Mike Earl

ASSESSMENT DATE June 25, 1985 ASSESSMENT OFFICER Mike Earl

x PROPOSED ASSESSMENT FINAL ASSESSMENT

WORKSHEET FOR ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY NAME Co-op/Bear CanyonNOV # N85-4-13-1PERMIT # ACT/015/025VIOLATION 1 OF 1I. HISTORY MAX 25 PTS

A. Are there previous violations which are not pending or vacated,
which fall within 1 year of today's date?

ASSESSMENT DATE June 25, 1985 EFFECTIVE ONE YEAR DATE June 26, 1985

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
N84-7-3-1	11-23-84	1	N85-4-2-1 PA	6-6-85	0
C84-7-1-1 PA	5-8-85	0	N85-4-3-2 PA	6-6-85	0
C83-5-1-4 #3	6-29-84	5	N85-4-8-2 PA	6-7-85	0
C83-5-3-1	pending	0			
N84-4-13-3 PA	5-5-85	0			

1 point for each past violation, up to one year
5 points for each past violation in a CO, up to one year
No pending notices shall be counted

TOTAL HISTORY POINTS 6II. SERIOUSNESS (either A or B)

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category the violation falls. Beginning at the mid-point of the category, the AO will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? EventA. Event Violations MAX 45 PTS

- What is the event which the violated standard was designed to prevent? Water pollution
- What is the probability of the occurrence of the event which a violated standard was designed to prevent?

PROBABILITY	RANGE	MID-POINT
None	0	
Insignificant	1-4	2
Unlikely	5-9	7
Likely	10-14	12
Occurred	15-20	17

ASSIGN PROBABILITY OF OCCURRENCE POINTS 5

PROVIDE AN EXPLANATION OF POINTS Per inspector statement it would take a 10 year 24 hours precipitation event to cause this event to occur. Rated as unlikely.

3. Would or did the damage or impact remain within the exploration or permit area? No

	RANGE	MID-POINT
Within Exp/Permit Area	0-7*	4
Outside Exp/Permit Area	8-25*	16

*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 9

PROVIDE AN EXPLANATION OF POINTS Per inspector statement the sediment pond which was receiving the mine water discharge was not designed to handle the additional inflow. Although it would take a substantial precipitation event, it is possible that discharge from the sediment pond could enter Bear Creek which is a perennial stream.

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? _____

	RANGE	MID-POINT
Potential hindrance	1-12	7
Actual hindrance	13-25	19

Assign points based on the extent to which enforcement is hindered by the violation.

ASSIGN HINDRANCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS _____

TOTAL SERIOUSNESS POINTS (A or B) 14

III. NEGLIGENCE MAX 30 PTS

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO - NO NEGLIGENCE;
OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO - NEGLIGENCE;
OR Was this violation the result of reckless, knowing, or intentional conduct? IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.

		MID-POINT
No Negligence	0	
Negligence	1-15	8
Greater Degree of Fault	16-30	23

STATE DEGREE OF NEGLIGENCE Negligence
ASSIGN NEGLIGENCE POINTS 9

PROVIDE AN EXPLANATION OF POINTS The operator acknowledged at the time of the inspection on April 19, 1985 that he did not have approval to discharge.

IV. GOOD FAITH MAX -20 PTS. (either A or B)

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area? IF SO -EASY ABATEMENT

Easy Abatement Situation

Immediate Compliance -11 to -20*
 (Immediately following the issuance of the NOV)
 Rapid Compliance -1 to -10*
 (Permittee used diligence to abate the violation)
 Normal Compliance 0
 (Operator complied within the abatement period required)

*Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance? IF SO - DIFFICULT ABATEMENT SITUATION

Difficult Abatement Situation

Rapid Compliance -11 to -20*
 (Permittee used diligence to abate the violation)
 Normal Compliance -1 to -10*
 (Operator complied within the abatement period required)
 Extended Compliance 0
 (Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)

EASY OR DIFFICULT ABATEMENT? _____ ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS A failure to abate CO # C85-4-4-1 was issued for this NOV. No good faith warranted.

V. ASSESSMENT SUMMARY FOR N85-4-13-1

I. TOTAL HISTORY POINTS	<u>6</u>
II. TOTAL SERIOUSNESS POINTS	<u>14</u>
III. TOTAL NEGLIGENCE POINTS	<u>9</u>
IV. TOTAL GOOD FAITH POINTS	<u>0</u>

TOTAL ASSESSED POINTS 29

TOTAL ASSESSED FINE # 380

Mike Earl

ASSESSMENT DATE June 25, 1985 ASSESSMENT OFFICER Mike Earl

X PROPOSED ASSESSMENT FINAL ASSESSMENT